

12-24-2002

Form PTO-1594

(Rev. 10/02)

OMB No. 0651-0027 (exp. 6/30/2005)

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U.S. DEPARTMENT OF COMMERCE  
U.S. Patent and Trademark Office

To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

## 1. Name of conveying party(ies):

Barnhill's Buffet, Inc.

12-5-02

- ☐ Individual(s) ☐ Association  
☐ General Partnership ☐ Limited Partnership  
☒ Corporation-State  
☐ Other Tennessee

Additional name(s) of conveying party(ies) attached? ☐ Yes ☒ No

## 3. Nature of conveyance:

- ☐ Assignment ☐ Merger  
☒ Security Agreement ☐ Change of Name  
☐ Other

Execution Date: 11/08/2002

## 2. Name and address of receiving party(ies)

Name: AMSOUTH BANK

Internal

Address: AmSouth Center, Attn Robert T. Page

Street Address: 315 Deaderick Street

City: Nashville State: TN Zip: 37207

☐ Individual(s) citizenship☐ Association☐ General Partnership☐ Limited Partnership☒ Corporation-State Alabama banking corp.☐ Other

If assignee is not domiciled in the United States, a domestic representative designation is attached: ☐ Yes ☒ No  
 (Designations must be a separate document from assignment)  
 Additional name(s) & address(es) attached? ☐ Yes ☒ No

OFFICE OF PUBLIC RECORDS

2002 DEC 18 AM 11:22

FINANCE SECTION

## 4. Application number(s) or registration number(s):

A. Trademark Application No.(s) 76158239,  
 76257923, 76435937, 76435943, 76435944

B. Trademark Registration No.(s) 2355314

Additional number(s) attached ☐ Yes ☒ No

## 5. Name and address of party to whom correspondence concerning document should be mailed:

Name: Paige W. Mills

Internal Address: Bass, Berry &amp; Sims PLC

AmSouth Center

Street Address: 315 Deaderick Street

Suite 2700

City: Nashville State: TN Zip: 37238-3001

## 6. Total number of applications and registrations involved: 6

7. Total fee (37 CFR 3.41) \$ 165.00

☒ Enclosed☐ Authorized to be charged to deposit account

## 8. Deposit account number:

DO NOT USE THIS SPACE

## 9. Signature.

Paige W. Mills, Esq.

Name of Person Signing

Signature

12/4/02

Date

Total number of pages including cover sheet, attachments, and document

14

12/23/2002 GTON11 00000181 76158239

Mail documents to be recorded with required cover sheet information to:  
 Commissioner of Patent & Trademarks, Box Assignments  
 Washington, D.C. 20231

01 FC:8521  
02 FC:852240.00 OP  
125.00 OPTRADEMARK  
REEL: 002638 FRAME: 0093

## TRADEMARK SECURITY AGREEMENT

**THIS TRADEMARK SECURITY AGREEMENT** (this "Agreement"), dated as of November 8, 2002, is made and entered into by BARNHILL'S BUFFET, INC. a Tennessee corporation (the "Borrower"), in favor of AMSOUTH BANK, an Alabama banking corporation ("AmSouth"), as administrative agent for itself and the Lenders under the Credit Agreement (in such capacity, the "Administrative Agent").

### **RECITALS:**

A. Borrower, the Subsidiaries now or hereafter becoming parties thereto, as guarantors (the "Guarantors"), certain Lenders, and the Administrative Agent are parties to a certain Credit Agreement dated as of November 8, 2002 (as the same heretofore may have been or hereafter may be amended, restated, supplemented, extended, renewed, replaced or otherwise modified from time to time, the "Credit Agreement"), pursuant to which the Lenders have made and will make Loans as more specifically described in the Credit Agreement.

B. The Borrower has agreed to grant in favor of the Administrative Agent for the ratable benefit of the Lenders a valid perfected security interest in all of its right, title and interest in, to and under the Collateral, including the property listed on attached Schedule A, together with any renewals or extensions thereof, and all Proceeds thereof, to secure the payment of the Obligations.

C. The Borrower owns all of the Trademarks listed on Schedule A hereto.

D. It is a condition precedent to the obligations of the Lenders to make the Loans under the Credit Agreement that the Borrower execute and deliver this Agreement to the Administrative Agent.

### **AGREEMENT:**

**NOW, THEREFORE**, in consideration of the premises and to induce Lenders to make the Loans under the Credit Agreement, the Borrower hereby makes the following representations and warranties to the Administrative Agent and hereby covenants and agrees with the Administrative Agent, all for the benefit of the Lenders and the Administrative Agent as provided in the Credit Agreement, as follows:

1. Defined Terms. Unless otherwise defined herein, terms that are defined in the Loan Agreement and used herein are so used as so defined, and the following terms shall have the following meanings:

(a) "Agreement" means this Agreement as amended, supplemented or otherwise modified from time to time.

(b) "Collateral" has the meaning assigned to it in Section 2 of this Agreement.

(c) "Obligations" means all of the Obligations of the Borrower as described and defined in the Credit Agreement, together with all advances made for taxes, levies, insurance and preservation of the Collateral and all attorney's fees, court costs and expenses of whatever kind incident to the collection of any of said indebtedness or other obligations and the enforcement and protection of the security interest created hereby.

(d) "Proceeds" means "proceeds," as such term is defined in Section 9-102(a)(64) of the UCC and, to the extent not included in such definition, shall include, without limitation, (a) any and all proceeds of any insurance, indemnity, warranty, guaranty or letter of credit payable to the Borrower, from time to time with respect to any of the Collateral, (b) all payments (in any form whatsoever) paid or payable to the Borrower from time to time in connection with any taking of all or any part of the Collateral by any governmental authority or any Person acting under color of governmental authority), (c) all judgments in favor of the Borrower in respect of the Collateral and (d) all other amounts from time to time paid or payable or received or receivable under or in connection with any of the Collateral.

(e) "Trademarks" means (a) all trademarks, trade names, corporate names, company names, business names, fictitious business names, trade styles, service marks, logos and other source of business identifiers used in any country in the world, whether registered or unregistered, and the goodwill associated therewith, now existing or hereafter acquired, and (b) all registrations, recordings and renewals thereof, and all applications in connection therewith, issued by or filed in a national, state or local governmental authority of any country, including, without limitation, all of the foregoing more particularly described or referred to in Schedule A hereto.

(f) "Trademark License" means any agreement, material to the businesses of the Borrower, written or oral, providing for the grant by or to the Borrower of any right to use any Trademark, including, without limitation, any thereof referred to in Schedule A hereto.

(g) "UCC" means the Uniform Commercial Code as from time to time in effect in the State of Tennessee.

2. Grant of Security Interest. As collateral security for the prompt and complete payment and performance when due (whether at the stated maturity, by acceleration or otherwise) of the Obligations, Borrower hereby assigns and grants to the

Administrative Agent, for the benefit of the Lenders and the Administrative Agent, a security interest in all of Borrower's right, title and interest in and to the following property now owned or at any time hereafter acquired by Borrower or in which Borrower now have or at any time in the future may acquire any right, title or interest (collectively, the "Collateral"):

- (a) all Trademarks;
- (b) all Trademark Licenses to the extent assignable; and
- (c) to the extent not otherwise included, all Proceeds and products of any and all of the foregoing;

regardless of whether specifically included in Schedule A.

3. Representations and Warranties Concerning Trademarks. Borrower represents and warrants that Schedule A hereto includes all of Borrower's registered Trademarks and Trademark Licenses owned by Borrower in its own name or as to which Borrower has any colorable claim of ownership that are material to the businesses of Borrower as of the date hereof. To the best of Borrower's knowledge, each Trademark is valid, subsisting, unexpired, enforceable and has not been abandoned. Except as set forth in Schedule A, none of the Trademarks is the subject of any licensing or franchise agreement. All licenses of the Trademarks are in force and, to the best knowledge of the Borrower, not in default. No holding, decision or judgment has been rendered by any governmental authority that would limit, cancel or question the validity of any material Trademark. No action or proceeding is pending (i) seeking to limit, cancel or question the validity of any Trademark or the Borrower's ownership thereof or (ii) that, if adversely determined, would reasonably be likely to have a material adverse effect on the value of any Trademark.

4. Covenants. Borrower covenants and agrees with the Administrative Agent that until the Obligations are fully paid and performed:

- (a) Further Documentation. From time to time, upon the written request of the Administrative Agent, and at the sole expense of Borrower, the Borrower will promptly and duly execute and deliver such further instruments and documents and take any other action reasonably requested by the Administrative Agent to insure the attachment, perfection and first priority of, and the ability of the Administrative Agent to enforce, the Administrative Agent's security interest in any and all of the Collateral, including (i) authorizing, executing (to the extent that the Borrower's signature is required), delivering and filing financing statements and amendments relating thereto under the UCC, (ii) complying with any provision of any statute, rule, regulation or treaty of any jurisdiction as to any Collateral if compliance with such provision is a condition to attachment, perfection or priority of, or ability of the Administrative Agent to enforce, the Administrative Agent's security interest in such Collateral, (iii) obtaining

governmental and other third party consents and approvals, including without limitation any consent of any licensor, lessor or other person obligated on Collateral, and (iv) taking all actions required by any earlier versions of the UCC or by other law, as applicable in any relevant jurisdiction. Borrower hereby authorizes the Administrative Agent to file any such financing or continuation statement without the signature of Borrower to the extent permitted by applicable law.

(b) Limitation on Lien on Collateral. Borrower will not create, incur or permit to exist, will take all commercially reasonable actions to defend the Collateral against, and will take such other commercially reasonable action as is necessary to remove, any Lien on or claim to the Collateral, other than the Liens created hereby, and other than as permitted pursuant to the Credit Agreement, and will take all commercially reasonable actions to defend the right, title and interest of the Administrative Agent in and to any of the Collateral against the claims and demands of all persons whomsoever.

(c) Limitations on Dispositions of Collateral. Borrower will not sell, transfer or otherwise dispose of any of the Collateral, or attempt, offer or contract to do so except as permitted in the Credit Agreement.

(d) Notices. Borrower will advise the Administrative Agent promptly, in reasonable detail, at its address set forth in the Credit Agreement, (i) of any Lien (other than Liens created hereby or permitted under the Credit Agreement) on, or claim asserted against, any of the Collateral and (ii) of the occurrence of any other event that could reasonably be expected to have a material adverse effect on the aggregate value of the Collateral or on the Liens created hereunder.

(e) Trademarks.

(1) Borrower (either itself or through licensees) will, except with respect to any Trademark that the Borrower shall reasonably determine is of immaterial economic value to it or otherwise reasonably determines not to do so, (A) continue to use each Trademark on each and every trademark class of goods applicable to its current line as reflected in its current catalogs, brochures and price lists in order to maintain such Trademark in full force free from any claim of abandonment for non-use, (B) maintain as in the past the quality of products and services offered under such Trademark, (C) use reasonable efforts to employ such Trademark with the appropriate notice of registration, (D) not adopt or use any mark that is confusingly similar or a colorable imitation of such Trademark unless within thirty (30) days after such use or adoption, the Administrative Agent, for its benefit, shall obtain a perfected security interest in such mark pursuant to this Agreement, and (E) not (and not permit any licensee or sublicensee thereof to) do any act or knowingly omit to do any act whereby any Trademark may become invalidated.

(2) Borrower will promptly notify the Administrative Agent if it knows, or has reason to know, that any application relating to any Trademark may become abandoned or dedicated, or of any adverse determination or material development (including, without limitation, the institution of, or any such determination or development in, any proceeding in the United States Patent and Trademark Office or any court or tribunal in any country) regarding the Borrower's ownership of any Trademark or its right to register the same or to keep and maintain the same.

(3) Whenever the Borrower, either by itself or through any agent, employee, licensee or designee, shall file an application for the registration of any Trademark with the United States Patent and Trademark Office or any similar office or agency in any other country or any political subdivision thereof, the Borrower shall report such filing to the Administrative Agent within five (5) business days after the last day of the fiscal quarter in which such filing occurs. Upon request of the Administrative Agent, the Borrower shall execute and deliver any and all reasonably necessary agreements, instruments, documents, and papers as the Administrative Agent may request to evidence the Administrative Agent's security interest in any newly filed Trademark and the goodwill and general intangibles of the Borrower relating thereto or represented thereby, and each Borrower hereby constitutes the Administrative Agent its attorney-in-fact to execute and file all such writings for the foregoing purposes, all acts of such attorney being hereby ratified and confirmed; such power being coupled with an interest is irrevocable until the Obligations are paid in full.

(4) Borrower, except with respect to any Trademark the Borrower shall reasonably determine is of immaterial economic value to it or it otherwise reasonably determines not to so do, will take all reasonable and necessary steps, including, without limitation, in any proceedings before any tribunal, office or agency in any other country or any political subdivision thereof, to maintain and pursue each application (and to obtain the relevant registration) and to maintain each registration of Trademarks, including, without limitation, filing of applications for renewal, affidavits of use and affidavits of incontestability when appropriate.

(5) In the event Borrower knows or has reason to know that any Trademark included in the Collateral is infringed, misappropriated or diluted by a third party, the Borrower shall promptly notify the Administrative Agent after it learns thereof and shall, unless the Borrower shall reasonably determine that such Trademark is of immaterial economic value to the Borrower, which determination the Borrower shall promptly report to the Administrative Agent, promptly sue for infringement,

misappropriation or dilution, or take such other actions as the Borrower shall reasonably deem appropriate under the circumstances to protect such Trademark.

5. The Administrative Agent's Appointment as Attorney-in-Fact.

(a) Powers. Borrower hereby irrevocably constitutes and appoints the Administrative Agent and any officer or agent thereof, with full power of substitution, as its true and lawful attorney-in-fact with full irrevocable power and authority in the place and stead of the Borrower and in the name of the Borrower or in its own name, from time to time after the occurrence, and during the continuation of, an Event of Default in the Administrative Agent's discretion, for the purpose of carrying out the terms of this Agreement, to take any and all appropriate action and to execute any and all documents and instruments that may be necessary or desirable to accomplish the purposes of this Agreement.

(b) Other Powers. Borrower also authorizes the Administrative Agent, at any time and from time to time, to execute, in connection with the sale provided for in Section 8 hereof, any endorsements, assignments or other instruments of conveyance or transfer with respect to the Collateral.

(c) No Duty on the Part of the Administrative Agent. The powers conferred on the Administrative Agent hereunder are solely to protect the interests of the Administrative Agent in the Collateral and shall not impose any duty upon the Administrative Agent to exercise any such powers. The Administrative Agent shall be accountable only for amounts that it actually receives as a result of the exercise of such powers, and neither it nor any of its partners, officers, directors, employees or agents shall be responsible to the Borrower for any act or failure to act hereunder, except for their own gross negligence or willful misconduct or failure to comply with mandatory provisions of applicable law.

6. Performance by the Administrative Agent of Borrower's Obligations. If Borrower fails to perform or comply with any of its agreements contained herein and the Administrative Agent, as provided for by the terms of this Agreement, shall itself perform or comply, or otherwise cause performance or compliance, with such agreement, the expenses of the Administrative Agent incurred in connection with such performance or compliance, together with interest thereon at the highest default rate provided in the Note, shall be payable by the Borrower to the Administrative Agent on demand and shall constitute Obligations secured hereby.

7. Proceeds. It is agreed that if an Event of Default shall occur and be continuing (a) all Proceeds received by Borrower consisting of cash, checks and other cash equivalents shall be held by the Borrower in trust for the Administrative Agent, segregated from other funds of the Borrower, and shall, forthwith upon receipt by the Borrower, be turned over to the Administrative Agent in the exact form received by Borrower (duly endorsed by Borrower to the Administrative Agent, if required), and

(b) any and all such Proceeds received by the Administrative Agent (whether from Borrower or otherwise) shall promptly be applied by the Administrative Agent against, the Obligations (whether matured or unmatured), such application to be in such order as the Administrative Agent shall elect. Any balance of such Proceeds remaining after the Obligations shall have been paid in full shall be paid over to Borrower or to whomsoever may be lawfully entitled to receive the same.

8. Remedies.

(a) If an Event of Default shall occur and be continuing, the Administrative Agent, may exercise, in addition to all other rights and remedies granted to it in this Agreement and in any other instrument or agreement securing, evidencing or relating to the Obligations, all rights and remedies of a secured party under the UCC. Without limiting the generality of the foregoing, the Administrative Agent without demand of performance or other demand, presentment, protest, advertisement or notice of any kind (except any notice required by law referred to below) to or upon Borrower or any other person (all and each of which demands, defenses, advertisements and notices are hereby waived), may in such circumstances forthwith collect, receive, appropriate and realize upon the Collateral, or any part thereof, and/or may forthwith sell, lease, assign, give option or options to purchase, or otherwise dispose of and deliver the Collateral or any part thereof (or, contract to do any of the foregoing), in one or more parcels at public or private sale or sales, at any office of the Administrative Agent or elsewhere upon such terms and conditions as it may deem advisable and at such prices as it may deem best, for cash or on credit or on future delivery without assumption of any credit risk. The Administrative Agent shall have the right upon any such public sale or sales, and, to the extent permitted by law, to purchase the whole or any part of the Collateral so sold, free of any right or equity of redemption in the Borrower, which right or equity is hereby waived or released. Borrower further agrees, at the Administrative Agent's request, to assemble the Collateral and make it available to the Administrative Agent at places that the Administrative Agent shall reasonably select, whether at the Borrower's premises or elsewhere. The Administrative Agent shall apply the net proceeds of any such collection, recovery, receipt, appropriation, realization or sale, after deducting all reasonable costs and expenses of every kind incurred therein or incidental to the care or safekeeping of any of the Collateral or in any way relating to the Collateral or the rights of the Administrative Agent hereunder, including, without limitation, reasonable attorneys' fees and disbursements, to the payment in whole or in part of the Obligations, in such order as the Administrative Agent may elect, and only after such application and after the payment by the Administrative Agent of any other amount required by any provision of law, including, without limitation, Section 9-608(a)(1) of the UCC, need the Administrative Agent account for the surplus, if any, to the Borrower. To the extent permitted by applicable law, Borrower waives all claims, damages and demands it may acquire against the Administrative Agent arising out of the exercise by them of any rights hereunder. If any notice of a proposed sale or



other disposition of Collateral shall be required by law, such notice shall be deemed reasonable and proper if given at least 10 days before such sale or other disposition. Borrower shall remain liable for any deficiency if the proceeds of any sale or other disposition of the Collateral are insufficient to pay the Obligations and the fees and disbursements of any attorneys employed by the Administrative Agent to collect such deficiency.

(b) The Administrative Agent shall not be required to marshal any present or future collateral security (including but not limited to this Agreement and the Collateral) for, or other assurances of payment of, the Obligations or any of them or to resort to such collateral security or other assurances of payment in any particular order, and all of its rights hereunder and in respect of such collateral security and other assurances of payment shall be cumulative and in addition to all other rights, however existing or arising. To the extent that it lawfully may, Borrower hereby agrees that it will not invoke any law relating to the marshalling of collateral or any similar law that might cause delay in or impede the enforcement of the Administrative Agent's rights under this Agreement or under any other instrument creating or evidencing any of the Obligations or under which any of the Obligations is outstanding or by which any of the Obligations is secured or payment thereof is otherwise assured, and, to the extent that it lawfully may, Borrower hereby irrevocably waives the benefits of all such laws.

9. Limitation on Duties Regarding Preservation of Collateral. The Administrative Agent's sole duty with respect to the custody, safekeeping and physical preservation of the Collateral in its possession, under Section 9-207 of the UCC or otherwise, shall be to deal with it in the same manner as the Administrative Agent would deal with similar property for its own account. Neither the Administrative Agent nor any of its partners, directors, officers, employees or agents shall be liable for failure to demand, collect or realize upon all or any part of the Collateral or for any delay in doing so or shall be under any obligation to sell or otherwise dispose of any Collateral upon the request of the Borrower or otherwise.

10. Powers Coupled with an Interest. All authorizations and agencies herein Contained with respect to the Collateral are irrevocable and powers coupled with an interest.

11. Severability. Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

12. Paragraph Headings. The paragraph headings used in this Agreement are for convenience of reference only and are not to affect the construction hereof or be taken into consideration in the interpretation hereof.

13. No Waiver; Cumulative Remedies. The Administrative Agent shall not by any act (except by a written instrument pursuant to Section 14 hereof), delay, indulgence, omission or otherwise be deemed to have waived any right or remedy hereunder or to have acquiesced in any default or Event of Default or in any breach of any of the terms and conditions hereof. No failure to exercise, nor any delay in exercising, on the part of the Administrative Agent, any right, power or privilege hereunder shall operate as a waiver thereof. No single or partial exercise of any right, power or privilege hereunder shall preclude any other or further exercise thereof or the exercise of any other right, power or privilege. A waiver by the Administrative Agent of any right or remedy hereunder on any occasion shall not be construed as a bar to any right or remedy that the Administrative Agent would otherwise have on any future occasion. The rights and remedies herein provided are cumulative, may be exercised singly or concurrently and are not exclusive of any rights or remedies provided by law.

14. Waivers and Amendments; Successors and Assigns. None of the terms or provisions of this Agreement may be waived, amended, supplemented or otherwise modified except by a written instrument executed by the Borrower and the Administrative Agent, provided that any provision of this Agreement may be waived by the Administrative Agent in a written letter or agreement executed by the Administrative Agent or by telex or facsimile transmission from the Administrative Agent. This Agreement shall be binding upon the successors and assigns of the Borrower and shall inure to the benefit of the Administrative Agent and its successors and assigns.

15. Notices. Any and all notices or other communications permitted or required to be made under this Agreement shall be given to the Borrower and the Administrative Agent at the addresses and in the manner specified in the Credit Agreement.

16. Governing Law. This Agreement shall be governed by, and construed and interpreted in accordance with, the laws of the State of Tennessee applicable to contracts to be wholly performed in such State.

17. CONSENT TO JURISDICTION. THE BORROWER HEREBY IRREVOCABLY CONSENTS TO THE PERSONAL JURISDICTION OF THE STATE AND FEDERAL COURTS LOCATED IN DAVIDSON COUNTY, TENNESSEE IN ANY ACTION, CLAIM OR OTHER PROCEEDING ARISING OUT OF ANY DISPUTE IN CONNECTION WITH THIS AGREEMENT, THE CREDIT AGREEMENT, THE NOTES OR THE OTHER LOAN DOCUMENTS, ANY RIGHTS OR OBLIGATIONS HEREUNDER OR THEREUNDER OR THE PERFORMANCE OF SUCH RIGHTS AND OBLIGATIONS. THE BORROWER HEREBY IRREVOCABLY CONSENTS TO THE SERVICE OF A SUMMONS AND COMPLAINT AND OTHER PROCESS IN ANY ACTION, CLAIM OR PROCEEDING BROUGHT BY THE ADMINISTRATIVE AGENT OR ANY LENDER IN CONNECTION WITH THIS AGREEMENT, THE CREDIT AGREEMENT, THE NOTES OR THE OTHER LOAN DOCUMENTS, ANY RIGHTS OR OBLIGATIONS HEREUNDER OR THEREUNDER OR THE PERFORMANCE OF SUCH RIGHTS AND OBLIGATIONS, ON BEHALF OF ITSELF OR ITS PROPERTY, IN THE

MANNER SPECIFIED IN SECTION 14.1 OF THE CREDIT AGREEMENT. NOTHING IN THIS SECTION 17 SHALL AFFECT THE RIGHT OF THE ADMINISTRATIVE AGENT OR ANY LENDER TO SERVE LEGAL PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR AFFECT THE RIGHT OF THE ADMINISTRATIVE AGENT OR ANY LENDER TO BRING ANY ACTION OR PROCEEDING AGAINST THE BORROWER OR ITS PROPERTIES IN THE COURTS OF ANY OTHER JURISDICTIONS.

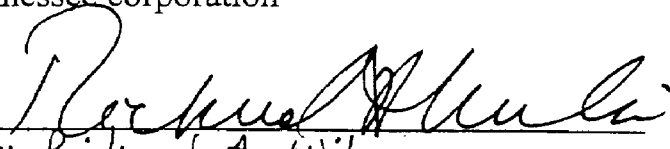
18. WAIVER OF JURY TRIAL. THE ADMINISTRATIVE AGENT, EACH LENDER AND THE BORROWER HEREBY IRREVOCABLY WAIVE THEIR RESPECTIVE RIGHTS TO A JURY TRIAL WITH RESPECT TO ANY ACTION, CLAIM OR OTHER PROCEEDING ARISING OUT OF ANY DISPUTE IN CONNECTION WITH THIS AGREEMENT, THE CREDIT AGREEMENT, THE NOTES OR THE OTHER LOAN DOCUMENTS, ANY RIGHTS OR OBLIGATIONS HEREUNDER OR THEREUNDER, OR THE PERFORMANCE OF SUCH RIGHTS AND OBLIGATIONS. The scope of this waiver is intended to be all-encompassing with respect to any and all disputes that may be filed in any court and that relate to the subject matter of this transaction, including without limitation contract claims, tort claims, breach of duty claims and all other common law and statutory claims. Each of the parties hereto (1) acknowledges that this waiver is a material inducement for the parties to the Loan Documents to enter into a business relationship, that the parties to the Loan Documents have already relied on this waiver in entering into same and the transactions that are the subject thereof, and that they will continue to rely on this waiver in their related future dealings, and (2) further warrants and represents that each has reviewed this waiver with its legal counsel and that each knowingly and voluntarily waives its jury trial rights following consultation with legal counsel. This waiver is irrevocable, meaning that it may not be modified either orally or in writing, and this waiver shall apply to any subsequent amendments, modifications, supplements, extensions, renewals or replacements of this Agreement. In the event of litigation, this Agreement may be filed as a written consent to a trial by the court.

[Signatures Begin Next Page]

IN WITNESS WHEREOF, Borrower and the Administrative Agent have caused this Agreement to be executed by their respective duly authorized officers or other duly authorized representatives as of the day and year first above written.

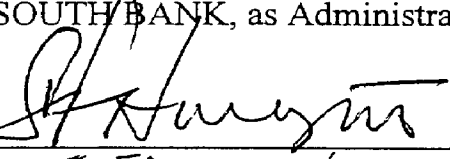
**BORROWER:**

BARNHILL'S BUFFET, INC.,  
a Tennessee corporation

By:   
Name: Richard A. Wilson  
Title: Chairman

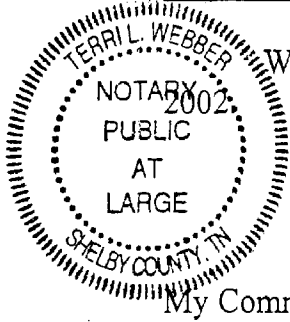
**THE ADMINISTRATIVE AGENT:**

AMSOUTH BANK, as Administrative Agent

By:   
Name: S. FLOYD HAWLEY III  
Title: SENIOR VICE PRESIDENT

STATE OF TENNESSEE                     )  
   )  
COUNTY OF SHELBY                     )

Before me, the undersigned, a Notary Public in and for the State and County aforesaid, personally appeared Richard A. Wilson, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to be the Chairman of BARNHILL'S BUFFET, INC., the within named bargainer, a Tennessee corporation, and that he as such Chairman, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself as such Chairman



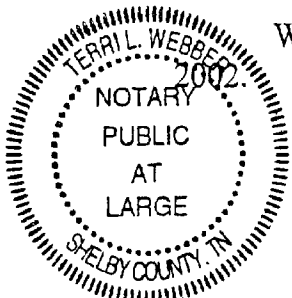
WITNESS my hand, at office in Memphis, Tennessee, this 8<sup>th</sup> day of November,

Terri L. Webber  
Notary Public

My Commission Expires:  
MY COMMISSION EXPIRES:  
February 25, 2004

STATE OF TENNESSEE                     )  
   )  
COUNTY OF SHELBY                     )

Before me, the undersigned, a Notary Public in and for the State and County aforesaid, personally appeared S. Floyd Harvey, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged him/herself to be the Sr. Vice-Pres. of AMSOUTH BANK, an Alabama banking corporation, and is authorized by the bank to execute this instrument on behalf of the bank by him/herself as such Sr. Vice-Pres.



WITNESS my hand, at office in Memphis, Tennessee, this 8<sup>th</sup> day of November,

Terri L. Webber  
Notary Public

My Commission Expires:  
MY COMMISSION EXPIRES:  
February 25, 2004

# Schedule A

(Trademarks)

<b>Trademark</b>	<b>Application Date</b>	<b>Serial/ Reg. No.</b>	<b>Status</b>
BARNHILL'S BUFFET	08-19-1999	2,355,314	Registered
BARNHILL'S BUFFET	11-03-2000	76-158,239	Pending
PAPA LOVETT'S	05-16-2001	76-257,923	Pending
BARNHILL'S SALADS BUFFET DESSERTS (LOGO)	07-29-2002	76-435,937	Pending
BARNEY BARNHILL BARNHILLS (LOGO)	07-29-2002	76-435,943	Pending
BARNHILL'S SALADS BUFFET DESSERTS (LOGO)	07-29-2002	76-435,944	Pending